IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2007

CORAM:

THE HON'BLE MR. JUSTICE V.DHANAPALAN

W.P. No.4380 of 2000

The Management of Tamil Nadu
State Transport Corporation,
(Coimbatore Divn. I) Ltd.,
Rep. By its Managing Director,
Coimbatore .. Petitioner

-vs-

1.The Presiding Officer,
Industrial Tribunal,
Chennai.

2.C.Rajendran .. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari calling for the records of the first respondent pertaining to the proceedings made in Approval Petition No.18 of 1998 dated 17.08.1999 and quash the same.

For Petitioner : Mr.V.R.Kamalanathan
For Respondents : Mr.D.Hariparanthaman(for R2)

O R D E R

The Management of Tamil Nadu State Transport Corporation (Coimbatore Division - I) Limited, represented by its Managing Director has filed this writ petition, challenging the order of the Industrial Tribunal in I.D.No.3 of 1990 in a petition under Section 33(2) (b) of the Industrial Disputes Act, 1947 made in Approval Petition No.18 of 1998, in and by which the Industrial Tribunal, after holding that there is no cogent and compelling evidence on record to make out that the second respondent is guilty of misappropriation and that presumptions cannot take the place of proof by means of acceptable evidence and also holding that the findings of the Enquiry Officer is perverse and the action of the

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petitioner Management in accepting the same and dismissing the respondent workman is not sustainable, dismissed the approval petition filed by the petitioner Management.

2. The brief facts for consideration are as follows:

The case of the petitioner is that the second respondent was employed as its conductor and while he was on duty in Route No.S10 between Udhayampalayam and Ondipudur, on 23.10.1997, the checking officials of the petitioner Corporation checked the bus at Lakshmi Mills Bus stop at about 17 hours and found that the second respondent had issued half-torn tickets to the passengers. The checking officials recovered the half-torn tickets from the passengers and the other half of the torn-tickets were with the conductor. Hence, charges were framed against the second respondent under Section 14(d)(ab)of the Standing Orders of the Corporation.

2.1 It is also the case of the petitioner Corporation that some of the half torn tickets were issued with serial number and some other tickets were issued without serial number and nearly 26 tickets were involved in this irregularity and that the other half-torn tickets in six books were in possession of the conductor/second respondent. The passengers also revealed that the conductor had issued only half-torn tickets to them after receiving the actual fare. By this irregularity, the second respondent misappropriated a sum of Rs.60.50 for his own use. After framing of the charges, the petitioner Management issued show cause notice on 06.11.1997, calling for explanation from the second respondent herein. He submitted his explanation, but the petitioner Management found that it was not satisfactory and ordered for domestic enquiry. During the domestic enquiry, he was given opportunity to cross examine the departmental witnesses and was also permitted to produce his own witnesses. In the enquiry, the second respondent did not properly explain as to why he gave the half torn-tickets to the passengers and why half-torn tickets were remaining in the ticket books.

2.2 According to the petitioner Corporation, it has conducted the domestic enquiry in a fair and proper manner duly observing the principles of natural justice. The second respondent also participated in the enquiry and examined his own witnesses. After detailed examination, the Enquiry Officer held that the charges framed against the delinquent employee were proved. The first respondent failed to note the past record of service of the second respondent, as he was punished 21 times for various acts of misconduct. Thereafter, on 21.01.1998, a second show cause notice was issued, proposing the punishment of dismissal from service with effect from 07.11.1997. The second respondent submitted his explanation and after finding that there is no exonerating

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circumstance in the explanation submitted by the second respondent for the second show cause notice, the petitioner had no other option except to pass a final order dismissing the second respondent from service, by order dated 07.04.1998. Immediately after dismissal, in compliance of the provisions under Section 33 (2)(b) of the Industrial Disputes Act, one month salary of the second respondent's last drawn pay and a copy of the approval petition were given to the second respondent by the petitioner Management.

2.3 The petitioner Corporation moved the Industrial Tribunal for approval of the action taken by them in dismissing the second respondent from service. The main contention of the petitioner Corporation before the Industrial Tribunal was that when the second respondent was on duty in Route No.S10, the bus was checked by the Checking Inspector who found that many of the passengers were having only half-torn tickets which contained either the number or the fare and because of this irregularity, the second respondent misappropriated a sum of Rs.60.50 and thus caused loss to the petitioner Corporation. The checking inspector obtained statement from the passengers in the presence of the driver and the second respondent/conductor. The second respondent did not write the invoice properly and thus, he committed misconduct under clause 14 (d) and (ab) of the said Act. The respondent conductor was suspended with effect from 07.11.1997. The explanation submitted by the respondent was not satisfactory and therefore, the domestic enquiry was conducted and the second respondent participated in the enquiry. The enquiry officer has held that the charges framed against the respondent are proved. The findings of the enquiry officer were accepted by the General Manager. The past record of service of the respondent was also not satisfactory, as he has been punished 21 times for various misconducts and thereafter, a show cause notice was issued and finding that there is no exonerating circumstance in the explanation submitted by the second respondent from the second show cause notice, they have passed the final orders and hence, the petitioner Corporation has sought for the approval.

3. The second respondent herein who has filed a counter before the Industrial Tribunal has submitted that he was a conductor in the petitioner Corporation and he had put in 17 years of service. At the relevant time, he was working in Ondipudur Branch of the petitioner Corporation. He also admitted that he was on duty in the Bus Route No.S10 between Udayampalayam and Ondipudur. When the checking officials were checking the bus at Lakshmi Mills bus stop, one Mr.Raghupathy, collected the tickets from the passengers who got down at various stops. He also collected the ticket books from the respondent-conductor and had torn some tickets in some of the denominations and those tickets were the first tickets at that

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time in the hands of the respondent. The checking officials did not write anything either in the invoice or in the TTR. Usually, the checking officials used to record the irregularity in the invoice or in the TTR. More importantly, the checking officials did not tally the passengers in the bus and the invoice. It was not done in any one of the bus stops between Lakshmi Mill and Ondipudur. The tallying of number of passengers with the invoice is usually done in all the checkings. Though the checking officials travelled upto Ondipudur, this was not done. Further, they did not obtain any statement from any of the passengers from whom tickets were said to have been collected. It is also an usual procedure. There was no checking of the cash bag. Only with a motive to put him in trouble, this checking was done. Thereafter, the checking officials served the irregularity report at the time of checking without mentioning any irregularity and therefore, the second respondent objected for such irregularity report and he noted his objection. In this situation, the petitioner Corporation issued a charge memo alleging that he had issued half-torn tickets to the passengers in various denominations thereby misappropriating Rs.60.50.

4. It was also contended by the second respondent before the Tribunal that by explanation dated 11.11.1997, he sought for an enquiry to prove his innocence. The enquiry was conducted in violation of principles of natural justice. The checking officials who were shown as witnesses in the enquiry notice dated 14.11.1997 acted as Presenting Officers of the Management and the checking officials did the cross examination of the passenger examined on the side of the respondent. This procedure is bad and illegal. Not satisfied with the explanation, an enquiry was ordered. In the enquiry, three witnesses were examined on the side of the Management. The third witness was the driver of the bus who spoke in favour of the defence. On the side of the respondent, one passenger was examined and he withstood the cross examination by the Management. The respondent gave a statement in the enquiry which was not controverted by way of cross examination. The findings of the enquiry officer are perverse, as there is no legal evidence to prove the allegations made against him. Neither the statements were obtained from the passengers nor the passengers were examined in the enquiry. The checking officials have admitted that they did not see the balance, i.e., they failed to tally the invoice with the number of passengers in the bus. Therefore, the enquiry officer rendered his finding based on no legal evidence. The driver of the bus who was examined as a management witness categorically stated that none of the passengers was examined in his presence and he was not cross examined by the petitioner management. No reasons were assigned as to why the checking officials did not give any reasons for not recording their complaint in the invoice and TTR. A very small portion of the

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ticket, if torn, cannot be described as half tickets. In the report, there is no proper reason and basis to allege that the respondent has committed a misconduct. Either in the report of the checking officials or in the charge memo, no mention has been made about Rs.1.10 tickets. When the respondent was not subjected to cross examination, the enquiry officer ought to have accepted his version and therefore, he prayed the Tribunal to dismiss the approval petition.

5. The Industrial Tribunal, on a careful analysis of the evidence adduced before it and also the Exs.M.1 to 24, gave a finding that both M.Ws.1 and 2 have admitted that they did not see the balance during checking. The checking by balance means, counting the heads of the passengers and tallying the same with the invoice. Both the witnesses have admitted that they did not check the balance. According to M.W.1, even if 100 passengers travelled in the bus, it will take only five minutes to check the balance. In Ex.M.2, TTR, it is specifically mentioned that because of checking the invoice after enquiring every passenger, there is a loss of 12 kilometres in the trip. But they did not check the passengers in connection with the invoice. It is not the case of the petitioner that any of the passengers was without ticket.

6. The Tribunal found that the mistake committed by the checking officials is the failure to check the cash bag. In all cases of checking, receiving paise from the passengers but not issuing tickets or issuing bogus tickets or tickets issued with altered fare or in the case of suspected misappropriation as in this case, it is the duty of the checking officials to check the cash bag and keeping excess amount in cash bag without declaring the amount of personal money itself is a misconduct. If there is no cash, then there is no possibility of any misappropriation. If really the second respondent had misappropriated Rs.60.50, a verification of the cash bag would have revealed the truth.

7. One more aspect of the evidence is that the driver was examined as a management witness and he has stated that his signature was obtained in a blank form. The petitioner did not cross examine the driver on this aspect nor did it treat him as a hostile witness. During cross examination, M.W.3 has stated that no passenger was examined in his presence and no passenger complained that he was issued the half tickets and that 10 days prior to the incident, he has deposed that one Raghupathy-checking official threatened him to depose as per their complaint, failing which he also would be implicated in a false case like this. In spite of such evidence, the petitioner has neither cross examined M.W.3 Driver, nor treated him as a hostile witness.

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8. The Industrial Tribunal also took cognizance of the ruling of this Court in W.P.No.11316 of 1984, wherein it is stated that if there is a perverse finding, the Tribunal is justified in refusing to grant approval as prayed for by the petitioner under Section 33 (2)(b) of the Industrial Disputes Act. Accordingly, the Tribunal found that the tickets produced by the petitioner management were highly suspicious in the sense that nearly 16 of 17 tickets were bearing both the ticket number and the fare amount and there were no half tickets as contended by the petitioner. Secondly, there was no explanation for the presence of 7 tickets of Rs.1.10 denomination. The checking officials have not even noted the address of any of the passengers nor have they obtained any statement from any witness. The evidence of the management alone cannot be conclusive and acceptable evidence in the absence of not examining the passengers or co-passengers to prove the guilt of the workman. The findings of the enquiry officer were perverse in nature and therefore, the Tribunal has come to the conclusion that there is no cogent and compelling evidence on record to make out that the respondent is guilty of misappropriation and dismissed the approval petition.

9. Mr.V.R.Kamalanathan, learned counsel for the petitioner Corporation has contended that the Industrial Tribunal's decision in dismissing the approval petition is without jurisdiction and is vitiated by errors of law apparent on the face of the records. The Tribunal ought to have seen that the respondent himself has accepted the offence, by signing the statement in the presence of the passengers, driver as well as the checking officials. It is also contended that the first respondent - Tribunal ought to have seen that the petitioner Management has followed the due procedure contemplated and the principles of natural justice and further contended that it failed to consider the serious irregularities committed by the second respondent by misappropriating the public money and it failed to take note that the action taken by the petitioner management is in the interest of the public statutory corporation. Therefore, dismissing the approval petition filed by the petitioner Management is highly arbitrary and hence seeks for approval.

10. In support of his contention, learned counsel for the petitioner Corporation has relied on a decision of the Supreme Court of India reported in 2005(1)LLJ 569 in the case of Cholan Roadways Ltd., vs. G.Thirugnanasambandam, and the relevant paras read as follows:

> "20. Res ipsa loquitur is a well known principle which is applicable in the instant case. Once the said doctrine is found to be applicable the burden of proof would shift on the delinquent. As noticed hereinabove, the inquiry officer has categorically rejected the

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defence of the respondent that the bus was being driven at a low speed.

25. Furthermore, in a case involving accident it is not essential to examine the passengers of the bus. In State of Haryana & Ors. vs. Rattan Singh, AIR 1977 SC 1512 : 1977 (2) SCC 491 : 1982-I-LLJ-46, this Court observed at p.47 of LLJ:

> "5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statement of passengers should be recorded by Inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation, in this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the re-evaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the administrative Tribunal. In conclusion, we do not think the Courts below were right in overturning the finding of the domestic Tribunal."

31. This decision also has no application to the facts of the present case. In the instance case the Presiding Officer, Industrial Tribunal as also the learned single Judge and the Division Bench of the High Court misdirected themselves in law insofar as they failed to pose unto themselves correct questions. It is now well-settled that a quasi-judicial authority must pose unto itself a correct question so as to arrive at a correct finding of fact. A wrong question posed leads to a wrong answer. In this case, further more, the misdirection in law committed by the Industrial Tribunal was apparent insofar as it did not apply the principle of res ipsa loquitur which was relevant for the purpose of this case and, thus, failed to take into consideration a relevant factor and furthermore took into consideration an irrelevant fact not germane for determining the issue, namely, the passengers of the bus were mandatorily required to be examined. The Industrial Tribunal further failed to apply the correct standard of proof in relation to a domestic inquiry, which is "preponderance of probability" and applied the standard of proof required

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for a criminal trial. A case for judicial review was, thus, clearly made out."

11. Further, the learned counsel for the petitioner Corporation relied on a decision reported in 2005 II LLJ 1144 [Jambunathan C. vs. Management of Dheeran Chinnamalai Transport Corporation Ltd. (Now Tamil Nadu Transport Corporation Ltd., Kumbakonam) Division II, Tiruchirapali rep. By its M.D. and another], and the relevant paragraphs reads as under:

"4. It has been held by the Supreme Court in Janatha Bazar v. Secretary, Sahakari Noukarara Sangha AIR 2000 SC 3129 : 2000 (7) SCC 517 : 2000-II-LLJ-1395 that once the act of misappropriation is proved, may be for a small or large amount, there is no question of uncalled for sympathy and reinstating the employee in service. In the above decision, the Supreme Court relied on its earlier decision Municipal Committee, Bahadurgarh v. Krishnan Behari and others AIR 1996 SC 1249 : 1996(2)SCC 714, wherein it was held that in cases of misappropriation, there cannot be any other punishment other than dismissal. It was further observed by the Supreme Court that any sympathy shown in such cases is totally uncalled for and opposed to public interest. The amount misappropriated may be small or large, but it is the act of misappropriation that is relevant."

12. Mr.D.Hariparanthaman, learned counsel appearing for the second respondent - conductor contended that the checking officials, particularly, Mr.Raghupathy collected tickets from the passengers who got down at various stops. He had also taken the ticket books from the respondent and had torn some tickets in some of the denominations and those tickets were the first tickets at that time in the hands of the respondent - conductor. The checking officials did not write anything either in the invoice or in the TTR. The usual procedure is to record the irregularity in the invoice or in the TTR. They did not tally the passengers in the bus and the invoice. It was not done in any of the bus stops between Lakshmi Mill and Ondipudur.

13. He further contended that not considering the witness M.W.3 - driver of the bus who was examined on the side of the petitioner management, namely the petitioner Corporation and only treating him as a hostile witness as he has deposed in favour of the defence is a perverse finding. He also argued that the checking of the cash bag would have revealed if really the second respondent had misappropriated Rs.60.50. It is not the case of the checking officials that the second respondent did not allow the checking of the cash bag. There is no answer on the part of the

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petitioner Corporation as to why they have not checked the cash to find out whether any amount is in excess to prove the case of misappropriation. The non-examination of the passengers is perverse in nature. For all these contentions, the learned counsel for the second respondent in support of his case, has relied on the following decisions, which read as follows:

1. 1994(2)LLJ 350 [Jeeva Transport Corporation Limited vs. Industrial Tribunal and another]

> "5. The Tribunal has found, after discussing the evidence on record, that the evidence is totally insufficient to hold that the charges are proved. Thus, the Tribunal has considered the evidence on record and come to the conclusion that the findings recorded by the domestic enquiry officer are perverse. That, the Tribunal is entitled to do.
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> 6. Reliance is placed on the judgment in Bharat Iron Works v. Bhagubhai, AIR 1976 SC 98. The Supreme Court held that there is no defect in procedure in a domestic enquiry against an employee, the Tribunal, while granting or withholding permission under Sec.33 does not sit as a court of appeal, weighing or reappreciating the evidence for itself but only examines the finding of the enquiry officer on the evidence in the domestic enquiry as it is, in order to find out either whether there is a prima facie case or if the findings are perverse. Thus, the Supreme Court has held that the Tribunal is entitled to consider whether the finding of the domestic enquiry officer is perverse or not. The judgment really does not in any way support the petitioner herein. In this case, the Tribunal has further taken into account all the relevant facts and come to the conclusion that the finding of the domestic enquiry officer is perverse.

2. 2004(2)LLN 1059 [Management, Cheran Transport Corporation Ltd., Coimbatore vs. The Presiding Officer, Industrial Tribunal, Madras and another]. In the above decision, the learned counsel relies on the following paragraph:

> "In this context, the decision in Uttar Pradesh State Road Transport Corporation and others v. Mahesh Kumar Mishra and others [2000 (2) L.L.N.399] (vide supra), is relevant, wherein the Supreme Court held that when none of the passengers had been examined to ascertain where they had boarded the bus and the transport Inspector had also not recorded the statement of the passengers, the punishment of dismissal was shockingly disproportionate. In the State of Haryana and another v. Rattan Singh [1977 (2) L.L.N.50] (vide supra),

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the delinquent employee had approached the civil Court for a declaration that the order of termination was a nullity. That does not apply to the facts of the present case and in any event, the Tribunal has held against the management, not only because of non examination of passengers. The reasons given by the first respondent for setting aside the findings of the enquiry officer cannot be said to be perverse or illegal. Therefore, the writ petition is dismissed. No costs."

3. In the decision reported in 2002(2)LLN 704 [Management of Jeeva Transport Corporation, Ltd., (represented by its Managing Director), Erode vs. The Presiding Officer, Industrial Tribunal of Tamil Nadu, Madras and another], the learned counsel relied on the following paragraphs:

"10. I have considered the submissions of both sides. I have also perused the enquiry officer's findings. It is no doubt true, that the enquiry officer has found that the claim of the driver that the victim had suddenly crossed the road was without any substance. The more relevant issue to be considered in this case is that no eye witness had been examined on the side of the management. Added to the same, a perusal of the Tribunal's order shows that the conductor though not examined has given a report on the same day. Even according to the statement of the conductor, the victim was standing on the left side of the bridge and that he suddenly crossed the road. The report of the conductor supports the claim of the delinquent. But on the other hand, in the enquiry report, it is seen that the enquiry officer had concluded that the victim had crossed the road from the right side of the road. This finding is contrary to the report of the conductor himself.

12. It is also seen that a witness was examined on the side of the worker and he had not been subjected to cross-examination. This would strike at the root of the propriety of the enquiry report and the nature of the enquiry before the enquiry officer."

4. Further, the learned counsel relied on a Division Bench judgment of the Madurai Bench of this Court in W.A.No. 292 of 2005, which reads as under:

"As pointed by the learned counsel for the petitioner the Supreme Court has gone in to similar contentions in the case reported in Regional Authority, Dena Bank and another and Chandhyam (2001-II-LLJ page 252). While dealing with the similar contentions, the Supreme Court

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has observed that it needs no debate to conclude that on reinstatement the respondent will be entitled to his salary on par with other employees working in the same post."

5. Paragraphs 38 and 39 relied by the learned counsel in the judgment reported in 1972(1)LLJ 180[Delhi Cloth and General Mills Co.Ltd. and Ludh Budh Singh] read as follows:

> 38. The Industrial Tribunal had to consider whether the appellant had made out a prima facie case for permission being granted for the action proposed to be taken against the workman. For that purpose the Tribunal was justified in considering the nature of the allegations made against the workman, the findings recorded by the enquiry officer and the materials that were available before the enquiry officer, on the basis of which such findings had been recorded. Accepting the contention of Mr.Anand that it was within the jurisdiction of the enquiry officer to accept the evidence of Sujan Singh and Rampal will be over-simplifying the matter and denying the legitimate jurisdiction of the Tribunal in such matters to consider whether the findings are such as no reasonable person could have arrived at on the basis of the materials before the enquiry officer. If the materials before the enquiry officer are such, from which the conclusion arrived at by the enquiry officer could not have been arrived at by a reasonable person, then it is needless to state, as laid down by this Court in Central Bank of India Ltd., New Delhi v. Shri Prakash Chand Jain [1969-II L.L.J.377], (1969) 1 S.C.R.735, that the finding has to be characterized as perverse. If so the Industrial Tribunal had ample jurisdiction to interfere with such a finding.
>
> 39. We have already pointed out that the Tribunal has not taken into account the admissions made by Sujan Singh in his cross examination where he has not attributed any act of destruction or violence to the respondent. The enquiry officer has proceeded on the basis that though Rampal declined to participate in the enquiry at an earlier stage, that circumstance does not affect his veracity, when he has later on appeared to give evidence. This observation of the enquiry officer clearly shows that he has not at all cared to give effect to the record made by him on June 13, 1966 to the effect

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that Rampal had refused to give evidence because he had no knowledge about the occurrence. If a person had no knowledge on June 13, 1966, that is a matter which had to be very carefully borne in mind by the enquiry officer when he again came to give evidence about the incident. This aspect has not been given due consideration by the enquiry officer. Therefore a finding recorded by an enquiry officer ignoring the material admissions made by a party in favour of an accused, is not a question of mere appreciation of evidence, but really recording a finding contrary to the evidence adduced before him. Even otherwise, the findings recorded by the enquiry officer are rather very strange. He does not hold the respondent guilty of any act of violence or of destruction of the mill's property or of obstructing the workmen from going to their place of work. These were the allegations of misconduct in the charge-sheet. But curiously, the enquiry officer proceeds on the basis that because the workman was in the crowd, that by itself is enough to find him guilty of the charges of obstructing the mill workers and destroying mill property. The enquiry officer has also committed another mistake when he proceeded on the basis that as the workman has not adduced any evidence in his defence, it is not open to him to contend that he was not responsible for the acts of destruction and damages. This observation clearly shows that the enquiry officer has missed the elementary principle of jurisprudence that when allegations of misconduct are levelled against a person, it is the primary duty of the person making those allegations to establish the same and not for an accused to adduce negative evidence to the effect that he is not guilty."

14. I have carefully scrutinised the entire records and the enquiry officer's findings and considered the submission of the learned counsel on both sides. Admittedly, when the respondent-Conductor was on the bus route S10 on a particular day and time, there was a checking carried out by the checking officials of the petitioner Corporation. Since it was Deepavali festival time, there were more than 100 passengers. There were many stops in between Udhayampalayam and Ondipudur, in the above said route. The findings of the enquiry officer is that the respondent conductor has misappropriated Rs.60.50 and has committed a misconduct in issuing half-torn tickets, thereby leading to the grave punishment of dismissal of the second respondent.

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15. The most relevant issue to be considered in this case is that whether the passengers who had been issued with half-torn tickets were examined or not. Moreover, M.W.3 – the driver of the bus was examined as a witness on the side of the management. But, when he has deposed in favour of the second respondent conductor, he was not cross examined. This witness has been not treated as hostile. Normally, the procedure in checking is tallying the ticket numbers issued to the passengers with that of the conductor and thereafter, checking of the cash bag to find out whether there is any excess cash, to arrive at a proper conclusion. If there is excess cash, then there can be a possibility of any misappropriation. Even if there is less cash, that would be an irregularity committed by the conductor-the second respondent herein. This aspect was not at all considered by the enquiry officer and therefore, the Tribunal came to a conclusion that there is perverse finding in the enquiry inasmuch as the crucial fact of the evidence, the non-examination of the passengers, the non-checking of the cash were not considered.

16. The Tribunal, further held that there is no cogent and compelling evidence on record to make out that the second respondent is guilty of misappropriation and presumptions cannot take the place of proof by means of acceptable evidence and therefore, it has rejected the approval petition. This is a case where the order of dismissal was vitiated by perversity as the enquiry officer's report was perverse in nature. The Tribunal has taken a clear view that the report is vitiated by perverse finding and therefore, rejected the approval petition.

17. Having regard to the facts and circumstances and from the discussion and rulings of the Supreme Court and this court (supra) and upon giving due consideration to the submission made by the counsel on either side, I am of the considered view that the Tribunal has rightly come to the conclusion that the enquiry findings and the report are vitiated by perversity, based on which the petitioner Corporation has dismissed the second respondent from service. This reasoning of the Tribunal is in conformity with the evidence and the rulings discussed above and therefore, the decision arrived at by the Industrial Tribunal is confirmed. In that view of the matter, I have no hesitation to hold that the order passed by the Industrial Tribunal is in no way contrary to law and therefore, the petitioner Corporation cannot succeed.

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18. In view of the above, the writ petition fails and is accordingly dismissed without any order as to costs. Consequently, the second respondent is permitted to withdraw the deposited amount of Rs.50,000/- after a period of four weeks from the date of receipt of a copy of this order.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

gms

To

The Presiding Officer,
Industrial Tribunal,
Chennai.

1 cc to Mr.D. Hariparanthaman, Advocate, sr. 11082
1 cc to Mr.V.R. Kamalanathan, Advocate, sr. 11043

W.P.No.4380 of 2000

MJ (CO)
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